

REMARKS/ARGUMENTS

The preceding amendments and following remarks are submitted in response to the Office Action mailed February 10, 2006, setting a three-month shortened statutory period for response ending May 10, 2006. With this Amendment, claims 1 and 23 have been amended. Claims 10-22 and 25-27 have been allowed, claims 28 and 29 have been objected to, and claims 1-9, 23 and 24 have been rejected. Reconsideration, examination and allowance of all non-allowed claims are respectfully requested.

As an initial matter, Applicants note that the drawings in this Application have not yet been accepted by the Examiner. Applicants respectfully request that the drawings be formally accepted with the next communication from the Patent Office.

Claims 1-5, 23 and 24 were rejected under 35 U.S.C. § 102(c) as being anticipated by Dubrul et al., U.S. Patent No. 6,602,265 (hereinafter "Dubrul"). In order for a reference to anticipate a claim, each and every element of the claim must be present in the reference. See M.P.E.P. §2131.

Applicants respectfully assert that Dubrul does not generally contain an actuatable stop as described in the claims and the specification of the current Application. However, in order to facilitate the prosecution of the Application, claims 1 and 23 have been amended. Both claims 1 and 23 now recite a size relationship between the diameter of the filter in an expanded position and the diameter of the stop in an expanded position.

Dubrul discloses a tissue separation medical device and method. As an example, Dubrul shows a device in Figure 5 that has a "Python" 20 and a "Trap" 12. Apparently, the Trap 12 is designed to trap any emboli or other material on one side of the trap, and the Python 20 can be advanced in order to surround and contain the emboli. In this

manner, it appears as though emboli can be trapped between the Trap 12 and the Python 20, allowing the Python 20 to be advanced over any of the trapped emboli. See, for example, Figure 5 and column 8, lines 13-28.

In contrast, claims 1 and 23 state that the stop has a first diameter in its expanded position and the filter has a second diameter in its expanded position. Further, the second diameter is larger than the first diameter, allowing fluids that flow through the filter to flow around the stop. Dubrul does not apparently disclose such a structure. For example in Figure 5, both the Python 20 and the Trap 12 appear to expand to the size of the vessel, allowing emboli to be sealed off and captured between the Python 20 and the Trap 12. In their expanded positions, the diameter of the Python 20 does not appear to be larger than the diameter of the Trap 12, and thus fluids flowing through the Python 20 of Dubrul would apparently have to also flow through, and not around, the Trap 12.

As such, Dubrul is missing at least the above-mentioned elements of claims 1 and 23. In addition, Levinson does not contain the elements of these claims that are missing from Dubrul. Because this combination does not contain each and every element of these claims, Applicants assert that claims 1 and 23 are allowable over Dubrul and Levinson. Because they are dependent on claims 1 and 23 and because they recite additional patentably distinct elements, Applicants also assert that claims 2-9 and 24 are allowable over these references.

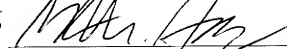
Further, claims 28 and 29 have been objected to. Applicants assert that these claims are allowable in their current form because they are dependent on claim 1 and because they contain additional patentably distinct elements.

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney.

Respectfully submitted,

ANTHONY C. VRBA ET AL.

By their Attorney,

Date: May 09, 2006 
Glenn M. Seager, Reg. No. 36,926
CROMPTON, SEAGER & TUFTE, LLC
1221 Nicollet Avenue, Suite 800
Minneapolis, Minnesota 55403-2420
Tel: (612) 677-9050